

May 20, 1976 - Tabled
June 10, 1976 - Tabled
June 16, 1976 - Tabled
November 18, 1976 - Withdrawn
December 9, 1976 - Resubmitted

MEMORANDUM

TO: BOSTON REDEVELOPMENT AUTHORITY
FROM: ROBERT T. KENNEY, DIRECTOR
SUBJECT: PROPOSED ZONING TEXT AMENDMENT RELATING TO MEDICAL INSTITUTIONS:
TEXT AMENDMENT APPLICATION NO. 54

At the November 18 meeting of the Authority, action on Text Amendment Application No. 54 was postponed pending the resolution of questions raised by Massachusetts General Hospital. It has since been agreed with attorneys for the hospital that we would clarify the proposed amendment by specifying that no Board of Appeal approval will be required for rehabilitation of existing buildings if there is no change in use, for replacement of loss by fire or other casualty or for a change in the location or mix of accessory medical or educational uses within existing medical or educational buildings. We believe that we have arrived at a resolution satisfactory to the interests of MGH and the City.

Massachusetts General also expressed concern that a verbal opinion by the Department of Health, relating to Certificate of Need procedures and the conditional use status, should be in writing. A written opinion has been received which confirms the oral opinion that applications for Certificate of Need and for conditional use permit may proceed simultaneously.

The text and vote of the November 18 memorandum are attached.

May 20, 1976 - Tabled
June 10, 1976 - Tabled
June 16, 1976 - Tabled

MEMORANDUM

NOVEMBER 18, 1976 - Resubmitted

TO: BOSTON REDEVELOPMENT AUTHORITY
FROM: ROBERT T. KENNEY, DIRECTOR
SUBJECT: PROPOSED ZONING TEXT AMENDMENT RELATING TO MEDICAL INSTITUTIONS:
TEXT AMENDMENT APPLICATION NO. 54

On June 16, 1976, the Authority tabled zoning Text Amendment Application No. 54 for a three-month period to allow time for representatives of medical institutions, FenPAC, the City, and the BRA staff to review in particular the proposed policy statement, Policies for Development of Educational and Medical Institutions in Boston, which was incorporated in the proposed amendment by reference.

Three joint review sessions with the hospitals and City staff were held during the summer. There was no formal resolution on the language and provisions of the policy statement, although there were a number of minor improvements in the wording. It was generally agreed that direct reference to the policy statement would be better left out of the zoning text, to avoid possible legal complications on some of the provisions such as payments in lieu of taxes. The staff feels that the existence of the policy statement will nevertheless continue to be helpful and will be utilized by the BRA and the City in reviewing petitions and making recommendations to the Board of Appeal.

Under the "conditional" use status, rehabilitation of existing hospital buildings does not require a Board of Appeal hearing. At the request of the hospitals, an additional exemption was added to allow minor additions to existing buildings or small new free-standing structures without requiring Board of Appeal approval.

We have further reassured the hospitals by clarifying the relationship of the conditional use zoning status to the Certificate of Need process. The BRA staff has received an opinion from the Chief Counsel's office of the State Department of Public Health that a "conditional use" is in effect a "special permit" and that, therefore, an applicant would be able to seek such approval simultaneously with the filing of a Certificate of Need application without undue delay. In addition, we have inserted an exemption for those hospitals that have previously filed for a determination of need and subsequently received or may receive a Certificate of Need, but have not yet applied for a building permit.

A further change, recommended by the hospitals, is that we have exempted medical institutions that are in urban renewal area subdistricts, since the procedure for securing such designation already requires two public hearings.

All the institutional participants in this summer's review sessions have been advised by letter of changes in the text amendment and policy statement and of the fact that the Authority is being requested to join FenPAC in filing zoning Text Amendment Application No. 54 as revised.

I feel that the medical institutions have been given ample opportunity to review and comment on the proposed city-wide zoning amendment and that it will provide a useful vehicle for Authority and community review of hospital expansion and development proposals in order to reduce possible negative impact on housing, traffic, and parking in the adjacent neighborhoods. I recommend that the Advisor to the Zoning Commission be authorized to petition the Zoning Commission, jointly with FenPAC, for an amendment as proposed in Text Amendment Application No. 54.

VOTED: The Boston Redevelopment Authority hereby authorizes the Advisor to the Zoning Commission to petition, jointly with the Fenway Project Area Committee (FenPAC), said Commission for the zoning text amendment as proposed in Text Amendment Application No. 54.

Text Amendment Application No. 54
Advisor to the Zoning Commission: FenPAC
Medical Institutions Conditional or
Forbidden Uses in All Districts
Revised 12/8/76

TO THE ZONING COMMISSION
OF THE CITY OF BOSTON:

The Advisor to the Zoning Commission, and _____, owner of property at _____, representing FenPAC, hereby jointly petition for a change in the text of the Boston Zoning Code as established by Chapter 665 of the Acts of 1956 as amended, as follows:

1. By striking out Use Item No. 20 of Table A in Section 8-7, respecting a library or museum not conducted for profit, and inserting in place thereof the following use items and footnote:
 - 20 Library or museum not conducted for profit and not accessory to a use listed under Use Item No. 16A, 18, 22, 23 or 24.....AAA/AA/AAC
 - 20A Library or museum not conducted for profit, and accessory to a use listed under Use Item No. 16A, 18, 22, 23 or 24, whether or not on the same lot.....C*C*/C*C*/C*C*

* Except A if accessory to Use Item No. 22 and if at least one of the provisos in the footnote of Use Item No. 22 is met.
2. By striking out Use Item No. 22 of said Table A and inserting in place thereof the following use items:
 - 22 Hospital or sanatorium not providing custodial care for drug addicts, alcoholics or mentally ill or mentally deficient persons.....FFC*/C*C*/FFF

* Except A provided that (1) the land or structure occupied by such use is located in an urban renewal area overlay district as defined in Section 3-1; or (2) such use is the subject of an application for determination of need filed on or before [the effective date of this amendment] with the Department of Public Health of the Commonwealth

under Section 25C of Chapter 111 of the General Laws, and such application, as it may be amended or modified, has been granted either prior or subsequent to [the effective date of this amendment]; or (3) an extension of a pre-existing structure contains no more than 2,500 square feet of gross floor area or a free standing building contains no more than 500 square feet of gross floor area and, in either case, occupies land in medical institutional use prior to [the effective date of this amendment].

22A Clinic or professional offices accessory to Use Item 22, whether or not on the same lot.....FFC*/C*C*/FFF

* Except A if at least one of the provisos in the footnote of Use Item 22 is met.

22B Convalescent, nursing or rest home; home for the aged; orphanage or similar institution not for correctional purposes and not providing custodial care for drug addicts, alcoholics or mentally ill or mentally deficient persons.....FFA/AA/FFF

3. By striking out Use Item No. 23 of said Table A and inserting in place thereof the following use item:

23 Any use listed under Use Item No. 22, 22A or 22B providing custodial care for drug addicts, alcoholics or mentally ill or mentally deficient persons.....FFF/CC/CCF

4. By striking out Use Item No. 24 of said Table A, and inserting in place thereof the following use item:

24 Scientific research and teaching laboratories not conducted for profit and accessory to a use listed under Use Item No. 16A, 18, 22 or 23, whether or not on the same lot, provided that all resulting cinders, dust, flashing, fumes, gases, odors, refuse matter, smoke and vapor are effectively confined to the lot or so disposed of as not to be a nuisance or hazard to health or safety; and provided also that no noise or vibration is perceptible without instruments more than fifty feet from the lot or any part of the lot..... FFC*/C*C*/C*C*C*

* Except A if accessory to Use Item No. 16 and also A if accessory to Use Item No. 22 and at least one of the provisos in the footnote of Use Item No. 22 is met.

5. By striking out, in Use Item No. 79 of said Table A, respecting incidental accessory uses and services ordinarily found in connection with hospitals and educational institutions, for patients and staff or students and faculty, the letters CCA/AA/FFF and inserting in place thereof the following letters and footnote:

CCC*/C*C*/FFF

* Except A if accessory to Use Item No. 22 and if at least one of the provisos in the footnote of Use Item No. 22 is met.

6. -By inserting into Section 23-3, respecting off-street parking requirements for institutional uses, in the proper numerical sequence, the following numbers:

20A, 22A, 22B

7. By inserting into the enumeration of Group II uses in Section 24-1, respecting off-street loading requirements, in the proper numerical sequence, the following numbers:

20A, 22A, 22B

8. By striking out the last sentence of Section 8-6 and inserting in place thereof the following sentence:

Any application for a change in use or an increase in the area devoted to such use shall be subject to the provisions of Article 6, but no conditional use permit shall be required for the replacement of gross floor area lost by fire or other casualty, nor for a use listed under Use Item No. 16A, 18, 22, 23 or any of the following uses accessory thereto: Use Item No. 20A, 22A, 24 or 79; provided that such use will occupy space currently occupied by the same main use, i.e. Use Item No. 16A, 18, 22, 23 or any such accessory use.

Petitioner: Advisor to the Zoning Commission

By:

Address:

Tel. No.:

Date:

Petitioner: _____

Address:

FenPAC 167 Massachusetts Avenue
Boston, Mass. 02115

For:

Tel. No.:

Date:

